

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 358 of 1995

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the Judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
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MANIBHAI MANGALDAS

VERSUS

STATE OF GUJARAT

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Appearance:

MR AD OZA for the Petitioners  
None present for the Respondents

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CORAM : MR JUSTICE S.K. KESHOTE

Date of Decision : 15/08/1999

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C.A.V. JUDGMENT

1. It is really shocking that though this petition has been filed in the year 1995, the respondent - State

of Gujarat and its officers have not cared to file reply to the special civil application. Not only this, the worse part is that nobody is present on behalf of them to make oral submissions also. Two Additional Government Advocates are present in the Court but on being asked by the Court they submitted that they have not received the papers of this matter nor they have any instructions in the matter to appear. This is the only defence which is to be made in this special civil application by the State of Gujarat, its functionaries, officers and the assistance which has to be given by it to the High Court by them I fail to see what for this institution "Government Pleader's Office" is there in the Court. The expenses which are incurred by the State of Gujarat on this institution - "Government Pleader's Office" is unnecessary a burden on the public exchequer. This needs serious consideration by the Higher-Ups in the State of Gujarat. Copy of this order may be sent to the Chief Secretary of the State of Gujarat.

2. Heard the learned counsel for the petitioner, perused the special civil application and the order of this Court dated 8th March, 1995.

3. It is the grievance of the petitioners that the circular dated 4-7-1994 of the State of Gujarat is wholly arbitrary and unjustified as it results in causing prejudice to the teachers with Masters qualification. This Court has considered this aspect of the matter and passed a detailed order on 8th March, 1995, which reads as under:

Heard Miss Vyas for the petitioners and Mr. Bhambhania for respondents No.1, 2 and 3. None present for respondent No.4, though served.

Petitioners are aggrieved by the circular dated 4th July, 1994, taken out by respondent No.2 and particularly clause (b) thereof. It is the grievance of the petitioners that under an earlier Government Resolution dated 28-10-1975 a better and a correct treatment was given to the better qualified teachers (namely, with Masters decree). Now they are sought to be equated under the aforesaid clause with the graduates and that if the aforesaid clause of the new circular is read independent of the earlier G.R., it will cause prejudice to the teachers with Masters qualification. Miss Vyas has given a copy of the said G.R. which is placed on record and marked as Annexure "X". The

submission of Miss. Vyas appears to be well founded. The matter requires consideration. Hence, Rule. In case the respondents intend to or do implement the circular dated 4th July, 1994, and particularly clause (b) thereof, the same shall be read along with clause 5 of the earlier G.R. dated 28-10-1975, which, admittedly, is not in any way overruled by new circular. The result of this will be that the trained graduate teachers as mentioned in clause 5 of the earlier G.R. will get the marks as contemplated in the new circular only after they complete seven years of service. The aforesaid clarification will run as the interim arrangement till the hearing and final disposal of this petition. Liberty to the parties to apply in the even of difficulty.

4. Though it is an interim arrangement which has been made till the hearing and final disposal of this petition, if we go by that order, in fact, it is a substantial order and after this order I am of the opinion that the State of Gujarat should have reconsidered the matter and in case where it is satisfied that the circular impugned in this special civil application is not reasonable, fair and causing prejudice to the teachers having higher qualifications, suitably it should have been amended. It is really shocking, surprising as well as unreasonable on the part of a Welfare State that when the Court has made some observation it has not undertaken the exercise to reexamine the matter. Not only this, even they have not cared to file reply, as stated earlier.

5. In the result, this special civil application is disposed of in terms that the respondent-State of Gujarat may reconsider its circular dated 4th July, 1994 in light of the observations made by this Court under its order dated 8th March, 1995 and in case it is satisfied that this circular needs to be modified then accordingly it may be modified. Where it considers that this circular does not require any modification then a reasoned order may be passed and copy of the same may be sent to the petitioners by regd. post A.D.. Till this exercise is undertaken and completed, the interim relief granted by this court shall continue. Rule stands disposed of in the aforesaid terms with no order as to costs.

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